

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 9901

IN THE MATTER OF:

Served September 11, 2006

NORTHSTAR TRANSPORTATION LLC,)
Suspension and Investigation of)
Revocation of Certificate No. 691)

Case No. MP-2006-122

This matter is before the Commission on respondent's response to Order No. 9850, served August 18, 2006.

I. BACKGROUND

Under the Compact, a WMATC carrier may not engage in transportation subject to the Compact if the carrier's certificate of authority is not "in force."¹ A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.²

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 691 for a minimum of \$1.5 million in combined-single-limit liability coverage and maintain on file with the Commission at all times proof of coverage in the form of a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

Certificate No. 691 was rendered invalid on August 1, 2006, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent expired without replacement. Order No. 9787 noted the automatic suspension of Certificate No. 691 pursuant to Regulation No. 58-02, directed respondent to cease transporting passengers for hire under Certificate No. 691, and gave respondent thirty days to replace the expired endorsement or face revocation of Certificate No. 691. Respondent submitted a \$1.5 million primary WMATC Insurance Endorsement on August 2, 2006. The effective date of the new endorsement is August 8, 2006. This means that respondent was without insurance coverage for seven days, from August 1, 2006, through August 7, 2006.

Under Commission Rule No. 28, respondent is required to verify that it ceased transporting passengers for hire under Certificate No. 691 as directed by Order No. 9787. Accordingly, Order No. 9850 gave respondent thirty days to verify that it ceased operations as of August 1, 2006. Inasmuch as respondent's only tariff is for service rendered to clients of the District of Columbia Department of Health, Medical Assistance Administration (DC Medicaid), such proof was to include confirmation from DC Medicaid.

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

II. RESPONSE AND ASSESSMENT OF FORFEITURE

Respondent submitted a revised replacement WMATC Insurance Endorsement on August 23, 2006. The revised replacement is effective August 1, 2006. This eliminates the 7-day break in coverage under the original replacement. Further, on August 24, respondent paid the \$50 late fee imposed under Regulation No. 67-03(c). This brings respondent into compliance with the Commission's regulations. On the other hand, respondent admits operating on two days during August, despite the suspension of Certificate No. 691.

A person who knowingly and willfully violates a provision of the Compact, or a rule, regulation, requirement, or order issued under it, or a term or condition of a certificate shall be subject to a civil forfeiture of not more than \$1,000 for the first violation and not more than \$5,000 for any subsequent violation.³ Each day of the violation constitutes a separate violation.⁴

"Knowingly" means with perception of the underlying facts, not that such facts establish a violation.⁵ "Willfully" does not mean with evil purpose or criminal intent; rather, it describes conduct marked by careless disregard.⁶

Respondent explains that the two trips took place before it received the Commission's suspension order. But respondent knew that the underlying policy expired August 1. It would have been a simple matter for respondent to check with the Commission to verify that a replacement endorsement had been filed and that it was effective August 1. We find that respondent was careless in not checking with the Commission prior to August 1 to verify that the necessary filing had been made.⁷

In situations similar to this one - operating while suspended but not while uninsured - the Commission has assessed a civil forfeiture of \$250 for each day of unauthorized operations and placed carriers on probation for one year.⁸ We shall follow the same course here and assess a civil forfeiture of \$250 per day for 2 days, for a total of \$500.

Once respondent has paid the forfeiture, we shall lift the suspension.

³ Compact, tit. II, art. XIII, § 6(f)(i).

⁴ Compact, tit. II, art. XIII, § 6(f)(ii).

⁵ *Amna O. Abugusseisa, t/a AB & B Trans*, No. MP-03-50, Order No. 7621 (Dec. 18, 2003).

⁶ *Id.*

⁷ *Cf., id.* (carrier careless in failing to verify replacement filing after switching insurance companies).

⁸ See e.g., *Cheeks & Son Transp., Inc.*, No. MP-04-195, Order No. 8726 (May 19, 2005); Order No. 7621.

THEREFORE, IT IS ORDERED:

1. That pursuant to Article XIII, Section 6(f), of the Compact, the Commission hereby assesses a net civil forfeiture against respondent in the amount of \$500 for knowingly and willfully violating Article XI, Section 6(a), of the Compact by transporting passengers for hire between points in the Metropolitan District on 2 separate days during August 2006 while Certificate No. 691 was invalid.

2. That respondent is hereby directed to pay to the Commission within thirty days of the date of this order, by money order, certified check, or cashier's check, the sum of five hundred dollars (\$500).

3. That upon timely compliance with the requirements of this order, and provided respondent is in compliance with Commission Regulation No. 58, the Commission shall issue an order reinstating Certificate No. 691, subject to a one-year period of probation. A willful violation of the Compact, or of the Commission's rules, regulations or orders thereunder, during the period of probation shall constitute grounds for immediate suspension and/or revocation of Certificate No. 691 without further proceedings, regardless of the nature and severity of the violation.

4. That Certificate No. 691 shall be subject to revocation pursuant to Article XI, Section 10(c) of the Compact if respondent fails to timely comply with the requirements of this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:

A handwritten signature in black ink, appearing to read "William S. Morrow, Jr.", is positioned above the printed name and title.

William S. Morrow, Jr.
Executive Director